



K A N S A S

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PRESS RELEASE

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KANSAS TO IMPOSE HARSHER PENALTIES FOR SECURITIES FRAUD

(TOPEKA) Governor Kathleen Sebelius has signed Senate Bill 110, which will lengthen the prison sentence for white-collar criminals convicted of securities fraud. The Kansas Legislature approved the harsher penalties (see attached summary) during the 2003 session.

In signing the legislation, Governor Sebelius expressed her support for the tougher sanctions, "We will now increase the penalties for financial crimes which have a devastating impact on victims, particularly when senior citizens are defrauded."

Senate Bill 110 will increase securities criminal penalties to three severity levels based on the amount of loss. Under current Kansas law, a defendant who defrauds investors out of \$1 million is treated the same as a defendant who steals \$25,000.

The legislation was proposed by Securities Commissioner David Brant and was supported by Shawnee County District Attorney Robert Hecht and Johnson County District Attorney Paul Morrison. Senator John Vratil (R-Leawood) serves as Chairman of the Senate Judiciary Committee, which introduced the bill.

"Effective enforcement and criminal punishment are the best deterrents for those who would defraud investors," emphasized Brant who noted that his agency is increasingly handling serious cases where older victims have suffered substantial losses.

At the legislative hearings on the bill, the Securities Commissioner testified about a 2002 case in which Phillip McGuckin, of Wichita, was convicted of securities fraud in Goodland, Kansas. McGuckin operated an oil and gas scheme that defrauded 51 investors out of \$1.2 million. One of McGuckin's victims, an 85 year old Navy veteran, invested \$54,800 with McGuckin to

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provide investment income for the care of his bed-ridden wife who suffered from Alzheimer's disease. Under current Kansas law, McGuckin received the standard prison sentence of 18 months for the securities fraud conviction. Under Senate Bill 110, which takes effect July 1, 2003, the maximum prison sentence for a defendant (with no prior criminal convictions), such as McGuckin, would be 43 months – more than double the current Kansas penalty.

Senate Bill 110 also codifies two new crimes which were modeled after similar federal provisions in the Sarbanes-Oxley Act of 2002: new section 7 prohibits influencing or misleading an appraiser or auditor in the preparation of appraisals or financial statements; and section 8 prohibits the destruction or falsifying of records and would protect whistleblowers from retaliation for providing truthful information.

The new law also increases the maximum civil fine per securities violation from \$5,000 to \$25,000. In addition, the Commissioner will now be authorized to impose an additional fine, not to exceed \$15,000, if the securities violation is committed against a senior citizen or a disabled investor.

Investigators and attorneys for the Kansas Securities Commissioner achieve an average of 11 to 14 securities convictions per year. The Securities Commissioner urges all Kansans to "Investigate Before You Invest." Call 1-800-232-9580 to check if an investment opportunity is registered and if the broker or investment adviser is licensed or visit the agency's website at www.securities.state.ks.us.

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(see attached summary)

Summary of Senate Bill 110

2003 KANSAS SECURITIES PENALTIES ACT

proposed by the Securities Commissioner,
approved by the Legislature, and signed by the Governor on April 21, 2003

Section

- 1 Securities Fraud: Amends K.S.A. 17-1253(f) to increase criminal penalties to severity levels 4 through 7 based upon the amount of loss rather than a single severity level 6 felony.

SECURITIES FRAUD Amount of Loss	Current Severity Level with Sentencing Range for Defendant with No Prior Convictions	SB 110 Severity Level with Sentencing Range for Defendant with No Prior Convictions
\$100,000 or more	Level 6 17-19 months	Level 4 38-43 months
\$25,000 but less than \$100,000	Level 6 17-19 months	Level 5 31-34 months
Less than \$25,000	Level 6 17-19 months (presumptive probation)	Level 7 11-13 months (presumptive probation)

- 2 Unregistered Agents: Amends K.S.A. 17-1254(f) to increase criminal penalties for offering or selling securities without being registered as a broker-dealer, agent, investment adviser or investment adviser representative to severity levels 5 through 7 based upon the amount of loss rather than a single severity level 7 felony.
- 3 Unregistered Securities: Amends K.S.A. 17-1255(b) to increase the criminal penalties for unlawfully offering or selling securities to severity levels 5 through 7 based upon amount of loss rather than a single severity level 7 felony.
- 4 False Filings: Amends K.S.A. 17-1264 to increase the criminal penalty for the filing of a false and misleading statement from severity level 10 to level 8.
- 5 Scope of Investigations: Amends K.S.A. 17-1265 to enable securities investigators to investigate other criminal acts if discovered during the course of an investigation. This type of authority is already granted to law enforcement officers with other state agencies (Revenue, Lottery, and Racing and Gaming).
- 6 Fines: Amends K.S.A. 17-1266a to increase the maximum fine from \$5,000 to \$25,000 in administrative proceedings, plus up to an additional \$15,000 if the violation is committed against a senior citizen or disabled investor.
- 7 Financial Statements and Appraisals: New crime (level 8, nonperson felony) - prohibits influencing or misleading persons in the preparation of financial statements or appraisals.
- 8 Destruction of Documents and Retaliation against Informants: New crime (level 8, nonperson felony) - prohibits the destruction or falsifying of records and protects whistleblowers from retaliation for providing truthful information.

Effective July 1, 2003